

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits-Arbitration- An amount of RS. 11,95,57,393/- as full and final settlement of claims in OS Nos. 12, 14 and 13 of 2001 on the file of the Court of the Principal District Judge Court Nalgonda in respect of the work relating to "Formation of Akkampally Balancing Reservoir from K.M. 0.000 to KM.1.925, Km.1.925 to KM.3.500. and KM.3.500 to KM 4.991", entrusted to M/s Kranthi Constructions, Hyderabad, vide Agt Nos. 3SE, 4SE and 5SE /96-97, dated: 17.06.1996-Sanctioned - Orders – Issued.

IRRIGATION&CAD (IRRIGATION WING: ARBITRATION) DEPARTMENT

G.O.Rt. No. 862

Dated: 27.08.2013.
Read the following:-

- 1.From the Hon'ble High Court of A.P., Hyderabad Judgment dated 04.03.2009 in AS Nos.1, 2, 3 of 2008.
- 2.From the Managing Partner.,M/s. Kranthi Constructions, Hyderabad, representation dated.09.06.2009.
- 3.From the CE,NSRSSProject,Hyd, Lr.No.CE/AMRP/W17/1683 /95/Vol.xII dated.20.10.2009.
- 4.From the Engineer-in-Chief, (rrigation Wing), I & CAD Deptt., Hyderabad, Lr.No. ENC/IW /P&M/EE.1/DEE.8/300108/2008 dated 01.11.2012

ORDER

The Chief Engineer, NSRSS Project, Hyderabad, in his letter 3rd read above, has reported that the work relating to "Formation of Akkampally Balancing Reservoir from K.M. 0.000 to KM.1.925,(Reach-I), Km.1.925 to KM.3.500(Reach-II) and KM.3.500 to KM 4.991(Reach-III)", was entrusted to M/s Kranthi Constructions, Hyderabad, vide Agt Nos. 3SE, 4SE and 5SE /96-97, dated: 17.6.1996.

2. The above three Agreements were concluded with a condition to complete the work by 16.12.1997 i.e (18) months, from the date of handing over the site on 17.06.1996. The Contractor has failed to complete the work within the agreement period and sought for extension of time with an undertaking that he will not claim for any extra financial liability by way of higher rates or higher amounts than what so ever arising by granting Extension of time. Extension of time was granted upto 31.08.1998. Meanwhile, the Contractor has represented the Government for payment of enhanced rates with SSR 1997-98 for the work done beyond agreement period in view of the escalation in cost of POLS, Spares and other machinery inputs. The Government vide G.O.Rt No.398, I&CAD Dept, dated 18.5.1998 have constituted three Member Committee to examine the representation of the Contractor. The Committee submitted the report to the Government on 31.10.1998. After examining the report of the three Member Committee, it was felt that the

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recommendation of the Committee to continue the contract by making payment of enhanced rates in first two reaches is against the codal provision and agreement conditions. Hence, the Government directed the C.E. N.S.R.S.S.P. Hyderabad to terminate three contracts in three reaches under clause 60 (a) of APSS. The Contractor has stopped the work from 17.10.1999 onwards and did not resume the work, even after issue of notices. Hence, the contracts were determined on 18.11.1999. After determining the contracts, the Contractor has sent a claim notice on 20.02.2000 followed by a notice under section 80 of CPC addressed to the Government. The above notice was replied by the Department on 22.04.2000.

3. The Contractor, has filed (3) suits in the District Court of Nalgonda during January 2001 in O.S. No. 12/2001, 13/2001 and 14/2001 for recovery of (3) Suits amount from the Government. The claims covered under the above suit consist of

- i.) Payment of current SSR during which the work was carried out.
- ii) Refund of excess seigniorage charges recovered over and above the rate covered in the agreement.
- iii) Reimbursement of loss of profit at the rate of 15%.
- iv) Refund of EMD & FSD forfeited.
- v) Refund of fines imposed during course of execution.
- vi) Interest on the above at the rate of 18%. Per annum

4. The Hon'ble Principal District Judge, Nalgonda has pronounced the Judgment on 18.4.2007 by accepting all the claims with cost of suits except seigniorage charges. The amount of claims ordered to be paid reach wise under different heads is hereunder:-

Reach-I (OS NO. 12 of 2001)

1)	Work done @ current SSR	Rs.3,65,69,000
2)	Loss of Profit	Rs. 54,30,000
3)	Refund of EMD & FSD	Rs. 18,67,143
4)	Refund of fines	Rs. 69,500
Total:		<u>Rs. 4,39,35,643</u>

Reach-II (OS NO. 14 of 2001)

1)	Work done @ current SSR	Rs.4,85,71,000
2)	Loss of Profit	Rs. 33,61,000
3)	Refund of EMD & FSD	Rs. 23,26,702
4)	Refund of fines	Rs. 72,500
Total:		<u>Rs. 5,43,31,202</u>

Reach-III (OS NO. 13 of 2001)

1)	Work done @ current SSR	Rs.1,72,46,000
2)	Loss of Profit	Rs. 7,52,000
3)	Refund of EMD &FSD	Rs. 8,68,271
4)	Refund of fines	Rs. 58,000

Total: Rs. 1, 89,24,27

Interest @ 12% was allowed on the above from 3/2000 to till the date of realization.

5. Aggrieved by the above Judgment of Hon'ble Principal District Judge, Court Nalgonda, the Department has filed Appeal Suit Nos.1,2,3,of 2008 in the Hon'ble High Court of A.P. The Hon'ble High Court while granting stay on the decrees of the lower Court has ordered to pay 50% of decretal amount together with the cost. Accordingly, the Department has deposited an amount of Rs. 11,89,61,543/-.

6. Subsequently, the Hon'ble High Court in its Judgment, dated 04.03.2009 in A.S.No.1, 2 and 3 of 2008, has directed the respondent-defendant to approach the Principal Secretary of the Department concerned by filing appropriate comprehensive representation within a period of (4) weeks from today, i.e 04.03.2009. On filing of which, the said authority shall Conciliate the meeting and try to settle the matter within a period of (3) months thereafter. In pursuance of these directions and on receipt of the representation from the Contracting firm, the matter has been referred to the Conciliation Committee concerned as constituted for the purpose vide G.O Rt. No. 103, I & CAD (ARB) Deptt., dated 24.01.2008. The Committee has submitted its report.

7. After examination of the Committee report, all the disputed claims have been negotiated with the Managing Partner, M/s Kranthi Constructions, Hyderabad, in the final Conciliation meeting held on 08.04.2013. During the meeting, the Contractor has expressed his willingness to accept the lumpsum amount of Rs.11, 95,57,393/- as full and final settlement of all the claims including interest in respect of OS Nos 12, 14 and 13 of 2001. To this effect, he has given a declaration on a notarized affidavits stating that he shall withdraw all legal proceedings in respect of work covered under OS No. 12, 14 and 13 of 2001 against the Government of Andhra Pradesh or its representative officer after realization of accepted amount.

8. After careful examination of the entire matter, it has been decided to accept the claim offered by the Contracting firm. Accordingly, Government hereby accord sanction for an amount of Rs.11,95,57,393/- (Rupees Eleven Crores Ninety five lakhs Fifty seven thousand Three Hundred and ninety three only) as full and final settlement of all the claims including interest in OS No. OS Nos 12, 14 and 13 of 2001 on the file of the Court of the Principal District Judge, Nalgonda in respect of work relating to "Formation of Akkampally Balancing Reservoir from K.M. 0.000 to

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KM.1.925, KM.1.925 to KM.3.500. and KM.3.500 to KM 4.991", entrusted to M/s Kranthi Constructions, Hyderabad, vide Agt Nos. 3SE, 4SE and 5SE /96-97, dated: 17.6.1996, subject to condition that the above Contracting firm should withdraw all the legal proceedings pending in the Courts in respect of the above work against the Government or its representative officer after realization of the sanctioned amount.

9. The expenditure sanctioned in para (8) above shall be debitable to the detailed Head of Account under " 4700-Capital Outlay on Major Irrigation, 01- Major Irrigation(Commercial), MH 125-Srisailem Left Bank Cannal(AMR SLBCProject),- SH 26 Dam and Appurtenant Works, 530 Major Works, 531 Other Expenditure ".

10. The Chief Engineer, NSRSS Project, Hyderabad is directed to deposit the above sanctioned decretal amount to the credit of OS Nos. 12, 14 and 13 of 2001 on the file of the Court of the Principal District Judge, Nalgonda for avoiding further legal complications in the matter. He is also directed to instruct the disbursing officer concerned to obtain a declaration from the above contracting firm accepting the amount as full and final settlement of all its claims before depositing the above sanctioned amount in the respective Court.

11. This order issues with the concurrence of Finance (W&P) Deptt, vide their U.O No. 1905/F5(A2)/13, dated 19.06.2013

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJOYENDRA PYAL
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To

The Chief Engineer, NSRSS Project, Hyderabad

The Superintending Engineer AMRSLBC project Circle No.1

Gandamvari Gudem Nalgonda.

The Accountant General, Hyderabad

The District Treasury Officer, Nalgonda

The Pay and Accounts Officer Nalgonda

The Managing Partner , M/s.Kranthi Constructions, Class 1& Special Contractors

,3-5-784/2/8/A,Sri Sai Sri Heights , King Koti Hyderabad – 500 029

Copy to

The P.S to Spl. Secretary to C.M

The PS to Minister (M&MI)

The G.P for Arbitration , High Court of A.P, Hyderabad.

The PS to Spl. Chief Secretary, I & CAD Deptt.,

The Law (B) Department

The Finance (W&P) Department.

The I & CAD (P&B) Deptt., with a request to release Loc/authorization for
the expenditure sanctioned above.

SF/SC.

//FORWARDED: BY ORDER//

SECTION OFFICER